

ISSUE DATE: January 24, 1996

DOCKET NO. G-002/AI-95-1056

ORDER APPROVING AFFILIATED INTEREST AGREEMENT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs  
Tom Burton  
Marshall Johnson  
Dee Knaak  
Don Storm

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Request by Northern States  
Power Company - Gas Utility for Approval of  
an Affiliated Interest Agreement with  
Northern States Power Company - Wisconsin

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**PROCEDURAL HISTORY**

On October 10, 1995, Northern States Power Company - Gas Utility (NSP Gas or the Company) filed its request for approval of the affiliated interest agreement.

On December 11, 1995, the Minnesota Department of Public Service (the Department) filed its comments recommending approval contingent on the Commission's approval of NSP Gas' contract demand entitlement filing in a related docket, G-002/AI-95-1055.

On December 18, 1995, the Company filed reply comments which disagreed with the Department's assertion that NSP Gas failed to explore its available options prior to submitting an affiliated interest filing.

The matter came before the Commission on January 11, 1996.

**FINDINGS AND CONCLUSIONS**

**A. NSP Gas' Petition**

NSP Gas has requested approval of a capacity release agreement between itself and Northern States Power Company - Wisconsin (NSPW). The Company requested approval of the Agreement effective December 1, 1995, the effective date of the Memorandum of Understanding between the two parties describing the contemplated transaction.

Under the agreement, NSPW will release to NSP Gas 2,200 Dkt/day of firm transportation on Northern's Tomah lateral for the months of December 1995 through February 1996. NSP Gas will purchase the three months of TF5<sup>1</sup> capacity from NSPW at Northern's maximum rates, the total cost being approximately \$77,000. The cost of these transportation entitlements will be reflected in NSP Gas' purchase gas adjustment (PGA) effective with November 1995 bills.

## **B. The Department's Comments**

The Department stated that it feels the filing fulfills the filing requirements of Minnesota Rules part 7825.2200. The Department also stated that the proposed affiliated interest transaction is the least expensive way to provide the 2,200 Dkt/day of capacity] for which the Company seeks approval in Docket No. G-002/M-95-1055. The Department advised, therefore, that if the Commission finds that the demand entitlement capacity requested in that docket is in the public interest, the Commission should also approve this affiliated interest agreement. subject to approval of the capacity levels in that docket.<sup>2</sup>

The Department criticized the Company for failure to explore alternatives to the purchase from NSPW. Specifically, the Department noted that prior to submitting its petition in the instant docket, NSP did not request bids from any utility along the Tomah lateral other than NSPW. Although NSP did have a letter from Northern stating there was no available capacity along the line, the Department felt that NSP should have contacted all of the utilities along the line to see if any of them would be willing to enter into a capacity release agreement with NSP. The Department felt that if NSPW had capacity to release, despite indications to the contrary by Northern, then NSP should have investigated the possibility that others might as well, before entering into an agreement with an affiliate at the maximum rates.

The Department recommended that in the future NSP fully explore the options available to the Company to serve its customers before the Company submits its filings.

## **C. NSP - Gas' Response**

The Company stated that the record does not support the assertion that NSP Gas failed to explore its available options prior to submitting an affiliated interest filing. NSP Gas stated it explored several alternatives including direct purchase of capacity from Northern, new peak shaving facilities, and contracting with NSPW for use of NSPW's peak shaving capacity in La Crosse.

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<sup>1</sup> TF5 is firm transportation service for the five month period between November and March.

<sup>2</sup> The Department has recommended that the Commission approve NSP Gas' requested demand entitlement levels in Docket No. G-002/M-95-1055.

NSP Gas stated it did not actively seek released capacity from other shippers using the Tomah line because the Company reasonably concluded that no capacity would be available. First, Northern stated the line was fully contracted. Second, NSP Gas monitored Northern's electronic bulletin board for released capacity and no shipper using the Tomah line offered capacity for release.

NSP acknowledged that Minnesota statutes and rules require an affiliated interest transaction to be "reasonable and consistent with the public interest" but argued that they do not require a utility to exhaust every theoretical alternative before contracting with an affiliate.

#### **D. Commission Analysis and Action**

The question before the Commission in this docket is whether the requested agreement is reasonable and consistent with the public interest. The Commission finds that it is and will approve it.

##### **1. Filing Requirements**

The Commission agrees with the Department that NSP Gas' filing complies with the filing requirements of Minn. Rule 7825.2200.

##### **2. Consideration of Alternatives**

The Commission agrees with the Company that its filing need not explore every possible alternative, no matter how remote or unlikely or expensive, before contracting with an affiliate. However, a showing that reasonable alternatives have been examined is required. The Commission is convinced that the Company met this standard in this case. While NSP Gas did not use competitive bidding to select the capacity release Agreement, the Commission finds that it did examine other alternatives and reasonably rejected them:

- Incremental TF capacity on Northern would be available only through additional construction. That option would require a large contribution in aid of construction (estimated at more than \$500,000) and a ten year contract for the capacity.
- Propane peak shaving may be a cost-effective long term solution but the construction lead time made that option impossible for the 1995-96 heating season. NSP - Gas is appropriately continuing to evaluate peak shaving as a firm supply alternative for future heating seasons.

##### **3. Relationship of Approval to Docket No. G-002/M-95-1055**

In Docket No. G-002/M-95-1055, the Commission will determine whether the Company needs certain additional capacity that it requests in that docket. The Department's position in the current docket (1056) is that if the Company does not need the capacity, then the agreement cannot be approved as consistent with the public interest. Since the Commission will not make a determination as to whether or not the entitlements are necessary in the instant docket, the

approval of the agreement should be conditioned on approval of the Company's entitlements request in Docket No. G-002/M-95-1055.

However, because approving the agreement does not approve recovery of the costs of the capacity in rates<sup>3</sup>, the Commission has consistently reviewed affiliated interest agreements in isolation, looking only to see if the agreement itself is reasonable and consistent with the public interest. In that light, the Commission is prepared to approve the affiliated interest agreement in this Order.

#### **4. Effective Date**

The Company has requested approval of the Agreement effective December 1, 1995. The Department did not mention an effective date in its comments. The Commission finds that it would be consistent with recent affiliated interest dockets to approve this Agreement effective as of December 1, 1995 as requested by the Company.

### **ORDER**

1. The affiliate interest agreement filed October 10, 1995 in this matter between Northern States Power Company - Gas utility (NSP-Gas or the Company) and Northern States Power Company - Wisconsin (NSPW) is approved effective December 1, 1995.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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<sup>3</sup> The capacity costs in this agreement are part of the Company's cost of gas and have been included in the Company's PGA since November 1, 1995. However, the Commission's Order in NSP Gas' demand entitlement docket (G-002/M-95-1055) will determine whether or not the Company will be allowed to recover the cost of this capacity. Any capacity that is disallowed in the 1055 Docket would be removed from the PGA on a prospective basis with prior recoveries accounted for in the PGA true-up.